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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,799	06/08/2000	Baljeet Singh Baweja	AUS0000172.US1	9729

7590   10/29/2003

International Business Machines Corporation
Intellectual Property Law Department
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EXAMINER
PATEL, HARESH N

ART UNIT	PAPER NUMBER
2126	5

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) ☐ Other: .

DETAILED ACTION

1.   Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1, 2, 7, 8, 12, 13 and 18-20 are rejected under 35 U.S.C. 102(b) as being

anticipated by Yamane et. al. (6,317,786) (Hereinafter Yamane), as disclosed in the non-final

action paper number 3 mailed on 7/3/03.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 3-5, 9-11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Yamane in view of Wolff 6,185,601, as disclosed in the non-final action paper number 3

mailed on 7/3/03.

5.   Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamane

in view of Suzuki 5,884,077, as disclosed in the non-final action paper number 3 mailed on

7/3/03.

Response to Arguments

Applicant's arguments filed 10/8/03 have been fully considered but they are not

persuasive.

Applicant argues (1) Yamane does not disclose "distributing said transaction into a

plurality of messages and for dynamically allocating each of said messages to different computer

systems for performance". The examiner disagrees in response to applicant's arguments.

Yamane teaches an agent sending web service requests as HTTP protocol messages to multiple

web server systems and balancing the requests among the web server systems by dividing the

requests among the web servers. Yamane teaches how to dynamically measure the workload and

and performance of the web server system. Yamane also teaches how to configure and

administrate the web service system remotely. Therefore Yamane meets the claim limitation of

distributing data processing transactions as messages to different computer systems. It is noted

that applicant intended that each transaction be divided into messages to be distributed to

different servers, however, the claims are not limited to this and therefore encompass a plurality

of transactions to be stored as plurality of messages to be sent to different servers such that each

transaction is sent to an individual server.

Applicant argues (2) Yamane does not disclose "displaying said allocated messages and

associated computer systems". The examiner disagrees. Yamane teaches using a client browser,

selecting a web server to send a request to and to display a message received from the selected

web server, col. 1, lines 17 – 34. The web service system allows user to display the load

balancing events. The system displays the available web servers and the web pages located on

each of the web servers, and allows the user to selectively request the web page. Therefore

examiner believes the reference teaches the limitation as disclosed above.

Applicant argues (3) Yamane does not disclose "the Yamane reference does not disclose

the display of tracked allocation of transaction messages". The examiner disagrees. The web

server system allows the user to selectively monitor the current events related to the web service

requests. The examiner has interpreted the transaction messages to be web service requests sent

as an HTTP protocol message and therefore believes that the reference meets the claim

limitations as disclosed.

Applicant argues (4) Wolff does not disclose "the allocation or reallocation of messages

in queues for workload balancing or displaying the queues of allocated or reallocated messages".

The examiner disagrees. The Wolff teaches the receiving of I/O requests in queues. Therefore

when combining with Yamane each server will receive its web server requests to be stored and

processed through queues. In addition Wolff teaches redirecting subsequent requests for at least

one resource to a second server node among the plurality of server nodes as disclosed in claim 4.

As explained above Yamane teaches the displaying a message from a server and therefore when

combine with Wolff would teach displaying redirected messages also.

Applicant argues (5) Yamane in view of Suzuki does not disclose "the allocation of

messages divided from a transaction in queues for workload balancing". The examiner disagrees.

In response to applicant's argument that the references fail to show certain features of applicant's

invention, it is noted that the features upon which applicant relies (i.e., "the allocation of

messages divided from a transaction in queues for workload balancing") are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations

from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993). Secondly, the claims deal with the allocation of messages

among multiple servers. As disclosed above, the combination of Yamane in view of Suzuki

teaches the allocation of messages among multiple servers. Therefore the rejection in maintained

as disclosed above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (703) 605-5234. The examiner can normally be reached on Monday-Friday from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached at (703) 305-8498.

The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 306-5404.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Haresh Patel

June 16, 2003.

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100